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No. 91-490

Supreme  
FILED

OCT 21 1991

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IN THE

**Supreme Court of the United States**

OCTOBER TERM, 1991

**ALFRED H. GREENING, JR.,**

*Petitioner,*

VS.

**HONORABLE BEN MILLER, Chief Justice,  
Illinois Supreme Court, et al.,**

*Respondents.*

**Petition For Writ Of Certiorari To  
The Supreme Court Of Illinois**

**BRIEF IN OPPOSITION OF RESPONDENTS  
MILLER, CLARK, MORAN, BILANDIC, HEIPLE,  
FREEMAN, AND CUNNINGHAM**

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and Cunningham*



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The state court respondents, the Honorable Ben Miller, Chief Justice of the Supreme Court of Illinois, and the Honorable William G. Clark, Thomas J. Moran, Michael A. Bilandic, James D. Heiple, Charles E. Freeman, and Joseph F. Cunningham, Justices of the Supreme Court of Illinois, respectfully request that this Court deny the petition for a writ of certiorari to the Supreme Court of Illinois.

## REASONS WHY THE PETITION SHOULD BE DENIED

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In his attempt to obtain review of a final state court proceeding, the petitioner has included as respondents each justice of the Supreme Court of Illinois. Chief Justice Miller and Justice Moran are designated as respondents notwithstanding their recusal from that proceeding, as specified on each of the orders from which the petitioner seeks relief. *See* Petitioner's Appendices A and B, both of which recite that "Miller, C.J., and Moran, J. took no part."

The members of the Illinois Supreme Court present this Brief in Opposition to explain that they have been incorrectly named as parties respondent in this Court. The Illinois Supreme Court acted as the final adjudicator of a contempt proceeding, which was initiated by the Attorney Registration and Disciplinary Commission (ARDC) and in which the petitioner in this Court was the named respondent.

The ARDC, a body consisting of four members of the Illinois bar and three nonlawyers, was created by the Illinois Supreme Court to undertake the administrative supervision of the registration of, and disciplinary proceedings affecting, members of the Illinois bar. Illinois Supreme Court Rule 751, Ill. Rev. Stat. ch. 110A, ¶ 751 (1989). In his petition to this Court, the petitioner acknowledges that the proceedings of which he complains were instituted by the ARDC (Petition at 3). Throughout the proceedings at issue, the ARDC assumed the role of party opponent to Mr. Greening. Nothing in the rules or practice governing contempt or other disciplinary matters aligns the Supreme Court with the ARDC against an attorney during such a

proceeding. The Supreme Court reviews the entire record before it and always remains free to find against the position of the ARDC. See, e.g., *In re Topper*, 135 Ill. 2d 331, 347, 553 N.E.2d 306 (1990).

As noted in his petition (Petition at 5, n.5), Mr. Greening did initiate an action in federal district court to complain of the same events surrounding the state court matter for which review is now sought. The complaint in *Greening v. Moran*,\* No. 90-3784, U.S. District Court for the Central District of Illinois, Springfield Division, was dismissed on June 21, 1990. That matter is currently pending in the U.S. Court of Appeals for the Seventh Circuit, No. 90-3784. Because a member of the state supreme court was named as a defendant, the court's active participation in that litigation is necessary and appropriate. The same is not true here, and the seven named justices of the supreme court respectfully submit that they should not be required to assume party status at this stage of the contempt proceeding. Any further litigation regarding this matter should be conducted, as it has in the past, between the petitioner and the ARDC.

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\* Hon. Thomas J. Moran was named as a defendant individually and in his official capacity as then-Chief Justice of the Illinois Supreme Court. The Seventh Circuit was notified that Chief Justice Miller has succeeded Justice Moran as party defendant to the extent that that matter seeks relief against the Chief Justice in his official capacity. F.R.A.P. 43(c).

## CONCLUSION

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For the foregoing reasons, and for those reasons as are submitted by the ARDC in substantive opposition to the petition, the Chief Justice and the Justices of the Supreme Court of Illinois respectfully submit that the petition for a writ of certiorari should be denied.

Respectfully submitted,

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